

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Speier Analyst: Marion Mann DeJong Bill Number: SB 1691

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 04/24/2000

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Employer Provided Domestic Violence Awareness Credit/Allows Credit to Reduce Tax Below Tentative Minimum Tax

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 10, 2000, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide a credit equal to 25% of the costs paid or incurred in California in establishing and maintaining resources or educational programs to raise awareness of domestic violence in the workplace.

### SUMMARY OF AMENDMENT

The April 24, 2000, amendments reduced the credit amount from 75% to 25% of allowable costs and reinstated the current law credit limitation provisions under the Bank and Corporation Tax Law for disregarded entities that were inadvertently deleted in the prior amendment.

The amendments resolved the policy consideration regarding the size of the credit raised in the department's analysis of the bill as amended April 10, 2000. Except for that policy consideration and the tax revenue estimate, the department's analysis of the bill as amended April 10, 2000, still applies. A description of the bill and a new tax revenue estimate under "Fiscal Impact" are provided below. In addition, the information under "Policy Considerations," "Implementation Considerations," and "Board Position" are restated below.

### SPECIFIC FINDINGS

**This bill** would create a credit equal to 25% of the costs paid or incurred in California in establishing and maintaining resources or educational programs to raise awareness of domestic violence.

"Resources and educational programs to raise awareness" would include, but not be limited to, any of the following:

#### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

#### Legislative Director

#### Date

Johnnie Lou Rosas

5/11/00

- Developing and implementing documented training about the impact of domestic violence for human resource staff, management and employee assistance professionals, and security staff and employees. Trainers would be required to demonstrate expertise in understanding domestic violence.
- Providing leave, either paid or unpaid, for employees who are domestic violence victims to seek shelter, seek counseling at a local service provider, or for court-related needs.
- Integrating the needs of domestic violence victims who are employees into existing employment policies and practices.
- Developing security protocols for employees, including employees who are domestic violence victims.
- Providing domestic violence resources to employees (e.g., security for employees, information about support services for domestic violence victims, emergency financial assistance, and relocation assistance).

"Domestic violence victim" would be defined by Section 6211 of the Family Code that defines "domestic violence" as abuse perpetrated against specified persons (e.g., a spouse or former spouse).

"Allowable costs" would include:

- costs to hire community-based domestic violence programs to provide training, services, and materials and to consult in the development of domestic violence workplace policies and programs; and
- costs of providing domestic violence resources to employees (e.g., development of security protocols, information about support services for domestic violence victims, emergency financial assistance, and relocation assistance).

Any credit amount in excess of tax could be carried forward up to eight years. The bill specifies that this credit would be allowed to reduce regular tax below tentative minimum tax.

### Policy Considerations

Conflicting tax policies come into play whenever a credit is provided for an expense item for which preferential treatment is already allowed in the form of an expense deduction. This new credit would have the effect of providing a double benefit for that expense item. On the other hand, making an adjustment to deductions in order to eliminate the double benefit creates a state and federal difference, which is contrary to the state's general conformity policy. In the case of a one-time expense deduction, the reduction of that expense would not create an ongoing difference.

This bill provides that allowable costs must be paid or incurred in California to qualify for this credit. However, allowable costs include both costs to hire community-based domestic violence programs to provide training, services and materials, and to develop security protocols, emergency financial assistance and relocation assistance. This may raise constitutional issues because a multi-jurisdictional taxpayer might pay or incur these expenses outside of California (for example, at the corporate or other headquarters in another state).

However, the taxpayer would not be able to claim this credit even though items such as materials were then shipped into California for use at the taxpayer's business location within California. It may be found that the taxpayer's inability to deduct these expenditures unfairly discriminates against out-of-state businesses that are subject to California tax. It would be more appropriate to limit the credit to costs incurred to train and provide assistance to California employees.

#### Implementation Considerations

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

It may be difficult for audit staff to verify the expenses allowable for the credit. In addition, because the definition of domestic violence awareness program is very broad and subjective, taxpayers and department staff may disagree on whether expenses would qualify for the credit.

#### FISCAL IMPACT

##### Departmental Costs

This bill would not significantly impact the department's costs.

##### Tax Revenue Estimate

Based on the data and assumptions below, revenue losses are estimated as follows:

Estimated Revenue Impact		
Income Years Beginning On or After January 1, 2000		
Enactment Assumed After June 30, 2000		
Fiscal Years		
(In Millions)		
2000-01	2001-02	2002-03
-\$10	-\$13	-\$14

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

With the change in the credit from 75% to 25% of allowable costs, the revenue losses decreased from the prior estimated losses of \$25 million in 2000-01, \$33 million in 2001-02, and \$34 million in 2002-03. This estimate reflects the reduced percentage of allowable costs paid or incurred in establishing and maintaining a domestic violence awareness program and an increase in credit usage rates due to the smaller amount of allowable credits.

#### BOARD POSITION

Pending.